IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 23RD AUGUST 2007 / 1ST BHADRA 1929

Ex.FA.No. 30 of 2006()

AGAINST THE ORDER DATED 18/07/2006 IN IA 2134, 1000/2004 IN OS.95/2005 of PRINCIPAL SUB COURT,KOCHI

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: APPELLANT/PETITIONER

K.J.XAVIER, AGED 37, S/O.JOSEPH,
KADAVIL HOUSE, EDAKOCHI VILLAGE, KOCHI TALUK
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER
SRI.P.S.JUDSON, S/O.SAMUEL, HOUSE NO.C.P.1/67,
KATTIPARAMP DESOM, PALLURUTHY VILLAGE, KOCHI
TALUK.

BY ADV. SRI.P.T.JOSE

RESPONDENTS:

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1. N.A.MOHAN SINGH, S/O.AYYAPPAN,
NADUVILEZHATH HOUSE, THEKKEN MALIPURAM,
AZHEEKKAL P.O.

2. R.SOMASUNDARAN, S/O.ACHUTHAN,
SECTION OFFICER, DOCK LABOUR BOARD,
COCHIN PORT TRUST, COCHIN-3.

BY ADV. SRI.T.A.RAJAN
SRI.JAYAKUMAR C.K.

THIS EXECUTION FIRST APPEAL HAVING BEEN FINALLY HEARD ON 10/8/2007, THE COURT ON THE 23.8.2007 THE FOLLOWING:

Kurian Joseph & T.R. Ramachandran Nair, JJ.

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No.2134/2004, the main contention raised was that the documents executed are sham documents and therefore the claimant has no locus standi to object the attachment ordered. Since the discrepancies if any with respect to the boundaries have not at all been raised in the claim petition, it is not clear as to how such a finding was rendered by the court below. It is pointed out at the Bar that such an issue was actually pleaded in the counter affidavit filed in I.A. No.1118/2005.

Therefore, the order impugned is hereby set aside and the matter is remitted back to the court below for fresh disposal in accordance with law. The parties will be at liberty to adduce evidence, if any, and the court below is directed to dispose of the matter as expeditiously as possible, at any rae, within a period of three months from the date of receipt of a copy of this judgment. The interim order granted by this court will continue till orders are passed afresh, as directed above.

The appeal is disposed of in the above terms.

(Kurian Joseph, Judge.)

(T.R. Ramachandran Nair, Judge.)